

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PREPARED FOOD PHOTOS, INC. f/k/a
ADLIFE MARKETING &
COMMUNICATIONS CO., INC.,

Plaintiff,

v.

MICHAEL DIFFLEY, INDIVIDUALLY,
AND d/b/a THE CORNER BUTCHER,
ADAM DAY, INDIVIDUALLY, AND d/b/a
THE CORNER BUTCHER, AND BRADLEY
CHILDS, INDIVIDUALLY, AND d/b/a THE
CORNER BUTCHER,

Defendants.

Case No. 4:22-cv-00311

JURY TRIAL DEMANDED

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff PREPARED FOOD PHOTOS, INC. f/k/a ADLIFE MARKETING & COMMUNICATIONS CO., INC. by and through its undersigned counsel, brings this Complaint against Defendants MICHAEL DIFFLEY, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER, ADAM DAY, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER, AND BRADLEY CHILDS, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff PREPARED FOOD PHOTOS, INC. f/k/a ADLIFE MARKETING & COMMUNICATIONS CO., INC. ("PFP") brings this action for violations of exclusive rights

under the Copyright Act, 17 U.S.C. § 106, to copy and distribute PFP's original copyrighted Works of authorship.

2. PFP is a retail food advertising company servicing retailers and wholesalers throughout the United States for almost 40 years. PFP specializes in custom photography, full service design and production, web and print management, mobile technology, and proprietary digital advertising platforms.

3. Defendant Defendants MICHAEL DIFFLEY, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER ("Diffley"), ADAM DAY, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER, BRAD ("Day"), BRADLEY CHILDS, INDIVIDUALLY, AND d/b/a THE CORNER BUTCHER are individuals who own and operate a butcher shop under the fictitious name, The Corner Butcher. At all times relevant herein, owned and operated the internet website located at the URL <https://thecornerbutcher.com/> (The "Website")

4. Defendants Diffley, Day, and Childs are collectively referred to herein as "Defendants."

5. PFP alleges that Defendants copied PFP's copyrighted Works from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants' business.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendants are subject to personal jurisdiction in Missouri.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.

DEFENDANTS

10. Michael Diffley, individually, and dba The Corner Butcher is an individual residing in St. Louis County that can be served at 1228 Piedras Parkway, Fenton, MO 63026.

11. Adam Day, individually, and dba The Corner Butcher is an individual residing in St. Louis County and can be served at 506 Coulter Avenue, Kirkwood, MO 63122.

12. Bradley Childs, individually, and dba The Corner Butcher i is an individual residing in St. Louis County that can be served at 16351 Copperwood Lane, Grover, MO 63040.

THE COPYRIGHTED WORKS AT ISSUE

13. In 1995, PFP created the photographs entitled “CheeseWhiteAmericanSliced001_ADL”, and “RawRibStLouisBnIn006_ADL” which are shown below and referred to herein as the “Works”.



14. The table below details the Copyright Titles, Registration Numbers, and Registration Issue Dates of the works of intellectual property at issue in this case. The Certificates of Registration are attached hereto as **Exhibit 1**.

Copyright Title	Registration Number	Registration Issue Date
CheeseWhiteAmericanSliced001_ADL	VA 2-033-004	March 15, 2017
RawRibStLouisBnIn006_ADL	VA 2-027-172	January 20, 2017

15. PFP's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

16. At all relevant times PFP was the owner of the copyrighted Works at issue in this case.

INFRINGEMENT BY DEFENDANTS

17. Defendants have never been licensed to use the Works at issue in this action for any purpose.

18. On a date after the Works at issue in this action were created, but prior to the filing of this action, Defendants copied the Works.

19. On or about April 20, 2020, PFP discovered the unauthorized use of its Works on the Website being used to promote the sale of American cheese or pork spare ribs.

20. Defendants copied PFP's copyrighted Works without PFP's permission.

21. After Defendants copied the Works, they made further copies and distributed the Works on the internet to promote the sale of goods and services as part of their butcher shop.

22. Defendants copied and distributed PFP's copyrighted Works in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

23. PFP's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

24. Defendants committed copyright infringement of the Works as evidenced by the documents attached hereto as **Exhibit 2**.

25. PFP never gave Defendants permission or authority to copy, distribute or display the Works at issue in this case.

26. PFP notified Defendants of the allegations set forth herein on December 30, 2020 and January 22, 2021. To date, Defendants have failed to respond to Plaintiff's Notices. Copies of the Notices to Defendants are attached hereto as **Exhibit 3**.

COUNT I
COPYRIGHT INFRINGEMENT

27. PFP incorporates the allegations of paragraphs 1 through 27 of this Complaint as if fully set forth herein.

28. PFP owns valid copyrights in the Works at issue in this case.

29. PFP registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

30. Defendants copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without PFP's authorization in violation of 17 U.S.C. § 501.

31. Defendants performed the acts alleged in the course and scope of its business activities.

32. Defendants' acts were willful.

33. PFP has been damaged.

34. The harm caused to PFP has been irreparable.

WHEREFORE, the Plaintiff Prepared Food Photos, Inc. fka Adlife Marketing & Communications Co., Inc. prays for judgment against the Defendants Michael Diffley, individually, and d/b/a The Corner Butcher, Adam Day, individually, and d/b/a The Corner Butcher, and Bradley Childs, individually, and d/b/a The Corner Butcher that:

- a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Defendants be required to pay Plaintiff its actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Plaintiff be awarded pre- and post-judgment interest; and
- e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

VOYTAS LAW, LLC

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